

REMARKS

Claims 1, 12, 13, 16, 20, 21, and 24-33 are amended and claims 1-33 remain in the application for consideration. In view of the remarks and amendments herein, Applicant respectfully requests reconsideration and allowance
5 of the subject application.

Applicant makes no representation that the cited references are prior art. This response and any remarks or comments included herein are not intended to be, and are not to be interpreted as, an admission that any cited references are prior art. Applicant reserves the right to dispose of any cited reference under
10 35 U.S.C. § 102 and/or 35 U.S.C. § 103, including but not limited to antedating any one or more of the cited references.

Drawings

The drawings were objected to in the Final Office Action of October 6,
15 2006 ("Final Office Action"). However, in the Examiner's Answer filed on July 24, 2007, the Examiner indicated that the objections to the drawings had been withdrawn.

§ 101 Rejections

20 Claims 1-33 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Without conceding the propriety of these rejections, Applicant has amended the claims. Accordingly, Applicant respectfully requests that the rejections of claims 1-33 under 35 U.S.C. § 101 be withdrawn.

Double Patenting Rejections

25 Claims 1, 13, 21, 24, and 25 stand provisionally rejected under the doctrine of obviousness-type double patenting over certain claims in co-pending application no. 10/671,408. Without conceding the propriety of these provisional

rejections, Applicant respectfully requests that the Office hold these rejections in abeyance until the notice of allowable subject matter.

Rejections under § 103

5 Claims 1-15, 20-23 and 25-31 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over U.S. Patent No. 6,061,742 to Thatcher, et al. (hereinafter “Thatcher”) in view of U.S. Patent Pub. No. 2003/0131104 to Karamanolis, et al. (hereinafter “Karamanolis”).

10 Claims 16-19, 32, and 33 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Thatcher in view of Karamanolis and further in view of U.S. Patent No. 6,154,212 to Eick, et al. (hereinafter “Eick”).

 Claim 24 stands rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Thatcher in view of Eick.

15 In the Decision on Appeal in this application decided on February 3, 2009, the Board of Patent Appeals and Interferences (“Board”) indicated that, with respect to Appellant’s arguments presented in the Appeal Brief of April 9, 2007, and the Reply Brief of September 24, 2007, “Appellants have shown that the Examiner erred in concluding that the combination [of] Thatcher and Karamanolis renders independent claim 21 obvious.” Decision on Appeal at pages 19 and 20.

20 The Board further reversed the rejections of claims 21-23 under 35 U.S.C. § 103(a). Decision on Appeal at page 23. Accordingly, and without conceding the propriety of the rejections of the remaining claims, Applicant has amended independent claims 1, 13, 24, and 25 to incorporate subject matter indicated by the Board as not being taught or suggested by the cited references.

25 Applicant thus submits that, for at least these reasons, a prima facie case of obviousness with respect to claims 1-33 cannot be established based on the cited references. Applicant further submits that claims 1-33 are allowable.

Conclusion

All of the claims are in condition for allowance. Accordingly, Applicant requests that the Office issue a Notice of Allowability. If the Office's next anticipated action is to be anything other than issuance of a Notice of Allowability, Applicant respectfully requests a telephone call for the purpose of scheduling an interview.

Respectfully Submitted,

10

Dated: April 3, 2009

By: /Christopher J. Culberson
Christopher J. Culberson
Reg. No. 59,136
(509) 755-7266